

AGENDA



Thursday, December 18, 2008

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION**

Item No. 5

Subject: Approve an ordinance authorizing negotiation and execution of a cost reimbursement agreement, related to Service Extension Request No. 2542B, with ONION ASSOCIATES, LTD., providing terms and conditions for construction of a 24-inch water main and appurtenances to provide water service to the Fox Hill Subdivision located east of South IH-35, south of Onion Creek and west of Bradshaw Road with City cost reimbursement for an overall total amount not to exceed \$3,445,939; waiving the requirements of Section 25-9-61, Section 25-9-63, and Section 25-9-67 of the City Code relating to cost reimbursement.

Amount and Source of Funding: Funding in the amount of \$3,445,939 is available in the Fiscal Year 2008-2009 Capital Budget of the Austin Water Utility.

Fiscal Note: A fiscal note is attached.

For More Information: Seyed Miri, P.E. 972-0202 and Denise Avery 972-0104

Boards and Commission Action: Reviewed by the Water and Wastewater Commission.

The Fox Hill Subdivision is a proposed single and multi-family development located on approximately 214 acres of land east of South IH-35, south of Onion Creek and west of Bradshaw Road (the "Property"), with approximately 41% of the Property within the City's full-purpose city limits. Onion Associates, Ltd., (the "Developer") has submitted Service Extension Request 2542B requesting that the City provide water utility service to the Property which is within the Council approved Impact Fee Boundary, Utility Service Area, and also within the Desired Development Zone and Onion Creek Watershed.

Under the proposed cost reimbursement agreement, the Developer will be required to construct approximately 9,000 feet of 24-inch water main from the proposed Fox Hill 42-Inch Water Improvements (WSER 2542A) within the Bradshaw Road or future alignment of Pleasant Valley Road within the Bella Fortuna Subdivision east of the Property, west within the proposed east/west thoroughfare that will bisect the Bella Fortuna Subdivision and the Property to the proposed 36-inch water main to be constructed by the South IH-35 Water and Wastewater Infrastructure Improvements Program (CIP No. 6937.003), along the western right-of-way of South IH-35. The 24-inch water main must be constructed under one phase if the proposed east/west thoroughfare is constructed under one phase.

Based on the Utility's capacity analysis, adequate system capacity exists to meet the projected demands of the property to be served and the proposed water improvements will serve additional development.

The City will reimburse the Developer for the actual construction costs of the 24-inch water main and appurtenances constructed within public right-of-way or easements for a total not to exceed \$2,996,469, and the costs for engineering, design and project management of the 24-inch water main and appurtenances within public right-of-way or easements for a total not to exceed 15% of the actual construction costs of the 24-inch water main and appurtenances up to a maximum of \$449,470, whichever is less, for a total not to exceed \$3,445,939. The Developer will bear all other costs for financing, interest, fiscal security, accounting, insurance, easement acquisition and legal services associated with this construction.

Because the Developer will construct water improvements beyond those needed only to serve the proposed development, the Developer is requesting a waiver from City Ordinance requirements of:

- 1) Section 25-9-61 relating to the amount of cost reimbursement. Under this Section, the maximum amount of cost reimbursement for the 24-inch water main is computed by multiplying the capacity of the 24-inch water main in Living Unit Equivalents (LUEs) by \$345 per LUE (24-inch water main at peak hour has a capacity of 3,204 LUEs), resulting in a maximum reimbursement amount not to exceed \$1,105,380.
- 2) Section 25-9-63 relating to the amount of cost reimbursement. Under this Section reimbursement cannot exceed the amount established in 25-9-61 and the amount of cost reimbursement is only for the actual construction costs.
- 3) Section 25-9-67 relating to cost reimbursement payments. Under this Section, cost reimbursement payments are to be made in one (1) payment on March 1 of the second year following the year in which the water improvements are accepted.

This action waives the requirements of Section 25-9-61, thereby allowing the reimbursement of the actual construction costs of the 24-inch water main up to a maximum of \$2,996,469.

This action waives the requirements of Section 25-9-63, thereby allowing the maximum reimbursement set by Section 25-9-61 to be exceeded and allowing for reimbursement of the costs for engineering, design and project management of the 24-inch water main up to a maximum of \$449,470.00.

This action waives the requirements of Section 25-9-67, thereby allowing the cost reimbursement payment in one (1) payment 90-days after final acceptance of the 24-inch water main.

The Developer will conform to the City of Austin design criteria and construction standards in all respects. The Developer will construct all required improvements at their cost subject to reimbursement as authorized by Council, the applicant will dedicate the facilities to the City for ownership, operation and maintenance.

The Developer agrees to meet the ethnic specific M/WBE utilization goals or demonstrate a good faith effort to meet the goals for consultants as established by Resolution 20071108-127, Third-Party Agreements.

The Developer also agrees to allow the City to use the Plans and Specifications approved by the Director, to solicit and publish invitations for bids for the construction of the improvements following standard City bidding practices and procedures, including the minority-owned business enterprise procurement program found in Title 2 of the City Code, as amended, and Chapters 212 and 252, Texas Local Government Code, as amended.